



Water & Natural Resources Committee

**Wednesday February 8, 2006
2:15 p.m.—3:15 p.m.
Reed Hall**

Meeting Packet

**Allan G. Bense
Speaker**

**Donna Clarke
Chair**

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 265 Hunting Lands
SPONSOR(S): Brown and others
TIED BILLS: **IDEN./SIM. BILLS:** SB 430

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR
1) Water & Natural Resources Committee		Winker <i>[Signature]</i>	Lotspeich <i>RAL</i>
2) Agriculture & Environment Appropriations Committee			
3) State Resources Council			
4) _____			
5) _____			

SUMMARY ANALYSIS

The bill prohibits the Fish and Wildlife Conservation Commission (FWCC) from making any land management decisions, including any decisions made by private land owners, to close hunting lands managed by the FWCC which will result in any net loss of habitat land acreage which is available for hunting on the effective date of the bill. The FWCC, other state agencies, and water management districts are required to cooperate and expeditiously identify and open lands for public hunting to compensate for any closure or loss of lands open for public hunting.

The bill contains reporting requirements for the FWCC and other state agencies and water management districts relating to the availability of hunting lands.

The bill will have an indeterminate fiscal impact depending on whether a loss of hunting land were to occur and replacement land needed to be obtained.

The effective date of the bill is upon becoming law.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. HOUSE PRINCIPLES ANALYSIS:

Promotes limited government – The bill expands the current responsibilities of the FWCC to require FWCC to maintain lands open for public hunting at current acreage levels by replacing any lands that are removed from public hunting.

B. EFFECT OF PROPOSED CHANGES:

Background Information

Current Law

Section 372.002, F.S., provides legislative intent that the citizens of Florida have a right to hunt, fish, and take game, subject to the regulations and restrictions prescribed by general law and by s. 9, Art. IV of the State Constitution which creates and specifies the authority of the Florida Fish and Wildlife Conservation Commission (FWCC).

Section 372.21, F.S., authorizes the FWCC, with the approval of the Governor, to acquire, in the name of the state, lands and waters suitable for the protection of game, fish, non-game birds, fur-bearing animals, or for hunting purposes by purchasing, leasing, receiving the land as a gift, or otherwise obtaining such land. Such lands acquired by FWCC are referred to as "state game lands." Section 372.21 also authorizes FWCC to erect fences and buildings necessary to properly maintain and protect the land for its intended purposes.

Hunting Lands

According to the FWCC, as of November 2005, there were approximately 5.6 million acres of land open for public hunting in the state's public hunting areas system. This total includes lands owned and/or managed by a variety of governmental agencies and private landowners. Private landowners may partner with the FWCC to have their land used for hunting by the public. Private land owners may also designate their land as private hunting land not open to the public.

Public Hunting Lands

Approximately 2.85 million acres in the public hunting area system are owned by the State of Florida. FWCC is the lead manager for about 1.1 million acres. The Department of Agriculture and Consumer Services' Division of Forestry is the lead manager for about 900,000 acres. The five Water Management Districts are lead manager and/or the owner of about 730,000 acres. Approximately 56,000 acres are managed by the State Armory Board, 53,000 acres are managed by the Department of Environmental Protection, and 16,000 acres are managed by the Department of Corrections.

Approximately 2.32 million acres in the state's public hunting area system are federally-owned property including 1.14 million acres managed by the U.S. Forest Service, 596,000 acres managed by the Department of Defense, 566,000 acres managed by the National Park Service, 8,000 acres managed by the Department of the U.S. Army Corps of Engineers, and 7,000 acres managed by the U.S. Fish and Wildlife Service.

Private Hunting Lands

The state's public hunting area system includes approximately 390,000 acres which are privately-owned, including about 200,000 acres owned by private timber and land companies including Plum

Creek, St. Joe, Foley Land and Timber, and Rayonier, and about 190,000 acres owned by the Miccosukee Tribe of Indians.

Concerns Regarding Loss of Public Access to Hunting Lands

According to the FWCC, there is concern among several FWCC stakeholder groups and hunters in general that lands currently open for public hunting are facing pressures (such as development, re-development, and urban encroachment), that may result in the loss of public access for hunting.¹

A survey of Florida hunters conducted by FWCC in the spring of 2005 reflected strong concern about the loss of hunting opportunities and places to hunt. The main concern expressed by people surveyed who hunt on public lands, as reported by FWCC, was that these hunting lands are too crowded.²

According to FWCC, a factor that contributes to these concerns and the perception that public hunting lands are declining is the trend in recent years of privately-owned lands being withdrawn from the state's public hunting area system. Since the year 2000, approximately 315,000 acres of privately-owned land have been withdrawn from the public hunting area system and closed to public access. Most of this land has remained open for hunting under a private hunting lease program where the landowner can generate much higher revenues than is possible under the public hunting area system. The private hunting lease system is driven by demand and the market for quality hunting opportunities and is entirely a private sector activity.³

While privately-owned lands in the state's public hunting area system have declined significantly in recent years, the amount of state-owned land in the state's public hunting area system has increased. Since the year 2000, 10 new public hunting areas comprising about 200,000 acres have been established and added to the system. During the same period, approximately 250,000 acres of land have been acquired and added to existing public hunting areas across the state.⁴

According to a 2003 national survey report by Responsive Management conducted for a national organization called the Conservation Fund, Florida ranked 2nd in the Nation in the percentage of lands leased for public hunting by the state and 9th in the Nation in the total acres of state-owned hunting lands. In that same report, Florida ranked 40th in the nation in the percent of state-controlled hunting land that is owned by the state and 4th in the nation in the amount of leased state hunting land. When asked by the surveyors what percent of state-controlled land that FWCC anticipates will be available for hunting in five years, Florida (along with 24 other states) was ranked #1. As part of the survey, all the states were asked to rate themselves on a scale of 1 (poor) to 10 (excellent) on the geographical distribution of their hunting acres through out the state, the accessibility of the hunting acres, and the quality of the hunting acres. Florida rated these issues 5.80, 7.00, and 6.80 respectively.

National Efforts on No-Net-Loss Hunting Land Laws

HB 265 is similar to legislation being introduced (and in a few states passed) as part of a proposal by the National Rifle Association's Institute for Legislative Action (NRA-ILA) and other hunting organizations. In a publication by the NRA-ILA, entitled "Will Darkness Fall on the Land?", bills similar to HB 265 have been filed in several states. No-net-loss hunting land legislation has passed in Illinois, Georgia, and Maryland with Pennsylvania, Oregon, and Florida having such bills introduced.

In addition, legislation (Senate Bill 1522 – introduced July 28, 2005) has been filed at the federal level which require that federal public land management decisions and action, should, to the maximum extent practicable, result in no net loss of land area available for hunting opportunities on federal public

¹ Personal communication with FWCC staff.

² Id.

³ Id.

⁴ Id.

land. The bill would also require each federal agency with authority to manage federal public land on which recreational hunting occurs to submit to certain congressional committees a report describing any federal public land that was closed to hunting at any time during the preceding year, the reason for the closure, and which land was opened to hunting to compensate for the closure of other hunting land.

Effects of Proposed Changes

The bill specifies that land management decisions and actions, including decisions made by private owners to close hunting land managed by the FWCC, shall not result in any net loss of habitat land acreage available for hunting opportunities on FWCC-managed lands that exists on the effective date of the bill. The bill also requires FWCC to expeditiously find replacement acreage for hunting to compensate for the closures of any existing hunting land.

The bill directs FWCC, other state agencies, and water management districts to maintain lands open for public hunting at current acreage levels and to replace any lands that are removed from public hunting.

The bill specifies that other state agencies and water management districts "shall assist, coordinate and cooperate with the Commission to allow hunting" if their lands are "determined by the Commission to be suitable for hunting." The bill also requires these agencies and water management districts to "cooperate with the Commission to open new, additional hunting lands to replace lost hunting acreage."

The bill requires FWCC to submit annual reports by October 1st regarding lands closed to hunting and how the loss of such lands is compensated by opening replacement lands. The bill also requires other agencies and water management districts to submit annual reports by October 1st to the Commission and the Legislature regarding lands open for public hunting, lands not open for public hunting, and the location of these lands by county.

The provisions of HB 265 would become effective upon becoming law.

C. SECTION DIRECTORY

Section 1: Creates s. 372.0025, F.S., provides definitions; requires certain lands owned, managed, or leased by the Fish and Wildlife Conservation Commission to be used for hunting; requires the Commission to provide comparable acreage for hunting for any loss of existing hunting lands; requires agencies and water management districts to allow certain lands to be used for hunting; and requires the Commission to submit annual reports to the Legislature and for agencies and water management districts to submit annual reports to the Commission.

Section 2: Provides an effective date of upon becoming law.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

See Fiscal Comments below.

2. Expenditures:

See Fiscal Comments below.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

There would be no fiscal impact or burden on private landowners who choose to remove their lands from the public hunting area system.

There are significant fiscal benefits for the private sector associated with maintaining lands open for public hunting. Public hunting lands have significant positive economic impacts on communities around public hunting areas, particularly in rural areas. Economic impacts are associated with the purchase of hunting supplies, camping supplies, lodging, vehicles, and fuel. Fiscal impacts, however, vary highly depending on the location of the area, size of the area, number of hunters using the area, and type of hunting among other factors.

D. FISCAL COMMENTS:

According to FWCC, estimates of the fiscal impacts HB 265 are unknown since any fiscal impact would vary greatly depending on how much acreage is lost to public hunting and what approach is necessary to replace the lost acreage. FWCC notes that the recent 5-year trend in the loss and gain of lands for public hunting indicates that more lands have been gained than lost due to state land acquisition programs adding lands to the public hunting area system. This trend is expected to continue in the near term, and would minimize any fiscal impact associated with HB 265.⁵

However, if significant hunting acreage is lost during a given year, FWCC would have to identify and open new lands for public hunting "expeditiously". Any fiscal impact would depend on comparing the cost of FWCC managing the lands that are lost from public hunting with the cost of managing new "replacement" lands that would be opened for public hunting.

For example, if it cost \$5 per acre per year to manage a property that is removed from the public hunting area system, and it cost \$10 per acre per year to manage the replacement property, the realized recurring fiscal impact would be an increased management cost of \$5 per acre per year.

To make this assessment, FWCC has identified a number of factors which affect the costs of providing public hunting opportunities. According to FWCC, these costs may vary greatly depending on several factors. For example, the cost of providing public hunting is lower on properties that have suitable infrastructure (e.g., roads, fences, camp grounds, and check stations) compared to properties where this infrastructure must be developed. Another factor is the required level of habitat management (e.g., prescribed burning, mowing, and food plantings) and game population management (e.g., animal population surveys, harvest monitoring, and development of regulations).

Costs are higher if extensive habitat management or game population management is required for FWCC to maintain public hunting. Also, the intensity of public use is an important factor in the cost of providing public hunting. Management costs are lower on properties that are open for public hunting to a limited number of people on a limited basis such as a few weeks, compared to properties open to a large number of people for several months. Due to these varying factors, FWCC estimates that the cost of managing public hunting land can range from less than \$1 per acre per year to over \$30 per acre per year.

According to FWCC, there are three basic options for replacing lost hunting lands. These options are:

- FWCC coordinating with other governmental (state and federal) agencies to identify any publicly-owned lands that are not currently open for public hunting and are suitable for opening. The

⁵ Id.

feasibility of this option may rely heavily on the availability of additional funding to cover the costs of providing public hunting opportunities on new cooperative public hunting areas. The cost of providing public hunting on lands where other agencies are cooperating with FWCC generally ranges between about \$1 per acre per year to about \$10 per acre per year.

- FWCC pursuing state acquisition of new lands through the Florida Forever program or a successor program. In the past 5 years, about 450,000 acres or about 90,000 acres per year have been purchased by the state and added to the public hunting area system. Given the current real estate market and the cost of land, this rate of acquisition is likely to slow down. The fiscal impacts of this option on FWCC would include any acquisition costs where FWCC uses In-holdings and Additions funds (currently \$4.5 million annually from Florida Forever) to acquire additions to the public hunting area system. Under this option, FWCC would be the lead agency manager. Currently, the non-recurring startup costs for opening such lands for public hunting are approximately \$30 per acre depending on the need for infrastructure such as roads and check stations to facilitate public hunting. The current recurring costs, including the cost of all land management activities, are approximately \$30 per acre. Land management funding is allocated to FWCC for new lands acquired through the Florida Forever Program, but funding levels vary from year-to-year and according to FWCC, costs are increasing for the management for such lands.
- FWCC leasing privately-owned lands for public hunting through its recreational user permit (user pay) program pursuant to s. 372.57(8)(i)1, F.S. Under the user pay program, the FWCC leases privately-owned lands for public hunting by establishing direct user permit fees, selling the permits, and then transferring the resulting revenues to the landowner. The FWCC works with the landowner to set hunter quotas and user fees at levels that will generate a desired level of lease revenue for the landowner and provide suitable hunting opportunities for the public. Under this program, the landowner is responsible for managing the land and providing adequate infrastructure for public hunting. There are currently about 200,000 acres of land in the user pay program. The landowners currently in this program have worked with the FWCC to keep these hunting opportunities affordable for the public. According to FWCC, this program has slowed the loss of private lands from the public hunting areas system, but has not stopped the loss. Also, this option is not attractive to many private landowners primarily because they can get higher revenues from private hunting leases without involving the FWCC and without allowing public access to their lands. The current average lease rate for private lands in the user pay program is about \$3 per acre per year. The current market value for private hunting leases can range from about \$4 to \$15 per acre per year depending on the location in the state, proximity to urban areas, and management history of the property among other things.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

This bill does not appear to require cities or counties to spend funds or take actions requiring the expenditure of funds. Nor does the bill reduce the authority that cities or counties have to raise revenues in the aggregate or reduce the percentage of a state tax shared with cities or counties.

2. Other:

When a legislative act requires FWCC action on the subject of fish or wildlife, there are potential legal implications as to whether such action conflicts with Article IV, Section 9, Florida Constitution that gives the Commission "...regulatory and executive powers of the state with respect to wild animal life...". However, that section of the Constitution also allows legislative acts which are "...in aid of the Commission, not inconsistent with..."

The bill states that "Commission-managed lands shall be open to access and use for hunting..." It does not appear that the objectives of the bill are inconsistent with the Commission's authority to regulate and manage hunting because the bill also has conditional language that allows the Commission to limit hunting when necessary for public safety, fish and wildlife management, homeland security or as otherwise limited by law. According to FWCC, this conditional language is worded broadly enough to allow the Commission adequate flexibility to decide where to allow hunting.

The provision in the bill that requires a no net loss of land for hunting may pose a potential conflict with Article IV, Section 9. It requires FWCC to maintain a minimum amount of state acreage for hunting, without consideration for game resources or factors beyond the control of FWCC, such as development and urban encroachment and the extent to which other agencies or water management districts are capable of or willing to open up land for hunting. According to FWCC, the primary legal concerns could be removed if the "shall" standard was changed to a permissive standard.

B. RULE-MAKING AUTHORITY:

Although not specified for in the bill, FWCC believes that the bill would potentially require rule-making by FWCC to establish and adopt regulations to allow public hunting on lands that are not currently open for hunting, but would be added to replace lands removed from public hunting.

C. DRAFTING ISSUES OR OTHER COMMENTS:

The following comments were provided by the FWCC:⁶

There could be limited opportunities for replacing acreage that may be removed from FWCC's public hunting area system. Approximately 80% of the acreage in the state's public hunting area system is not directly owned or managed by the FWCC. Such lands are referred to as "cooperator" lands where the FWCC administers public hunting on the property in cooperation with another state agency or landowner. The bill would place most of the responsibility for maintaining and replacing hunting lands on the FWCC, yet FWCC does not hold management or final decision-making authority for a majority of these lands.

At the present time, all lands suitable for public hunting under FWCC ownership or management are open for public hunting. To replace lost acreage, FWCC would need to either: locate lands managed by other agencies that are not currently open for public hunting and seek willingness from the agency to open such lands for hunting of those lands; identify potential hunting lands that are privately-owned and which could be leased through the FWCC's recreational user permit program pursuant to s. 372.57(8)(i)1, F.S., or pursue state acquisition of acreage to replace lost public hunting lands.

FWCC has worked with and will continue to work with other governmental agencies and private landowners to identify potential hunting lands for the public. This type of cooperation is currently occurring in many cases, but the bill would provide a statutory basis and direction for FWCC to make the determination regarding the suitability for public hunting on all state-owned lands.

There is currently no dedicated funding source for leasing additional private lands for public hunting, particularly at current market rates for leasing hunting lands.

IV. AMENDMENTS/COMMITTEE SUBSTITUTE & COMBINED BILL CHANGES

⁶ Id.

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A bill to be entitled
An act relating to hunting lands; creating s. 372.0025,
F.S.; providing definitions; requiring certain lands
owned, managed, or leased by the Fish and Wildlife
Conservation Commission to be used for the purpose of
hunting; requiring the commission to support, promote, and
enhance hunting opportunities; requiring the commission to
provide comparable acreage for any loss of existing
hunting lands; requiring agencies and water management
districts to allow certain lands to be used for the
purpose of hunting; requiring annual reports to the
commission and Legislature; providing an effective date.

WHEREAS, section 372.002, Florida Statutes, protects the
right of citizens of this state to hunt, and

WHEREAS, access and availability of hunting lands is
essential to the exercise of that right, NOW, THEREFORE,

Be It Enacted by the Legislature of the State of Florida:

Section 1. Section 372.0025, Florida Statutes, is created
to read:

372.0025 No net loss of hunting lands.--

(1) As used in this section, the term:

(a) "Commission" means the Fish and Wildlife Conservation
Commission.

(b) "Commission-managed lands" means those lands owned by
the commission, those lands owned by the state over which the

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29 commission holds management authority, or those privately owned
30 lands that are leased or managed by the commission.

31 (c) "Hunting" means the lawful pursuit, trapping,
32 shooting, capture, collection, or killing of wildlife or the
33 lawful attempt to pursue, trap, shoot, capture, collect, or kill
34 wildlife.

35 (2) Commission-managed lands shall be open to access and
36 use for hunting except as limited by the commission for reasons
37 of public safety, fish or wildlife management, or homeland
38 security or as otherwise limited by law.

39 (3) The commission, in exercising its authority under the
40 State Constitution and statutes, shall exercise its authority,
41 consistent with subsection (2), in a manner that supports,
42 promotes, and enhances hunting opportunities to the extent
43 authorized by state law.

44 (4) Commission land management decisions and actions,
45 including decisions made by private owners to close hunting land
46 managed by the commission, shall not result in any net loss of
47 habitat land acreage available for hunting opportunities on
48 commission-managed lands that exists on the effective date of
49 this act. The commission shall expeditiously find replacement
50 acreage for hunting to compensate for closures of any existing
51 hunting land.

52 (5) Any agency or water management district that owns or
53 manages state lands shall assist and coordinate and cooperate
54 with the commission to allow hunting on such lands if such lands
55 are determined by the commission to be suitable for hunting. To
56 ensure no net loss of land acreage available for hunting,

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agencies and water management districts shall cooperate with the
commission to open new, additional hunting lands to replace lost
hunting acreage.

(6) By October 1 of each year, the executive director of
the commission shall submit to the Legislature a written report
describing:

(a) The acreage managed by the commission that was closed
to hunting during the previous fiscal year and the reasons for
the closures.

(b) The acreage managed by the commission that was opened
to hunting to compensate for closures of existing land pursuant
to subsection (4).

(7) By October 1 of each year, any agency or water
management district that owns or manages state lands shall
submit a written report to the commission and the Legislature
that includes:

(a) A list of properties that were open for hunting during
the previous fiscal year.

(b) A list of properties that were not open for hunting
during the previous fiscal year.

(c) The acreage for each property and the county where
each property is located.

Section 2. This act shall take effect upon becoming a law.

HOUSE AMENDMENT FOR COUNCIL/COMMITTEE PURPOSES

Amendment No. 1

Bill No. **HB 265**

COUNCIL/COMMITTEE ACTION

ADOPTED _____ (Y/N)
ADOPTED AS AMENDED _____ (Y/N)
ADOPTED W/O OBJECTION _____ (Y/N)
FAILED TO ADOPT _____ (Y/N)
WITHDRAWN _____ (Y/N)
OTHER _____

Council/Committee hearing bill: Water & Natural Resources
Committee

Representative(s) Brown offered the following:

Amendment

Remove line 53 and insert:
manages state lands, except for lands acquired for
transportation rights of way, shall assist and coordinate and
cooperate

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(272)

HOUSE AMENDMENT FOR COUNCIL/COMMITTEE PURPOSES

Amendment No. 2

Bill No. **HB 265**

COUNCIL/COMMITTEE ACTION

ADOPTED _____ (Y/N)
ADOPTED AS AMENDED _____ (Y/N)
ADOPTED W/O OBJECTION _____ (Y/N)
FAILED TO ADOPT _____ (Y/N)
WITHDRAWN _____ (Y/N)
OTHER _____

Council/Committee hearing bill: Water & Natural Resources
Committee

Representative(s) Brown offered the following:

Amendment

Remove line 70 and insert:
management district that owns or manages state lands, except for
lands acquired for transportation rights of way, shall

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HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 341 Citrus/Hernando Waterways Restoration Council
SPONSOR(S): Dean
TIED BILLS: **IDEN./SIM. BILLS:** SB 496

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR
1) <u>Water & Natural Resources Committee</u>		Blanchette <i>CB</i>	Lotspeich <i>RAL</i>
2) <u>Local Government Council</u>			
3) <u>State Resources Council</u>			
4) _____			
5) _____			

SUMMARY ANALYSIS

The bill amends section 1 of ch. 2003-287, Laws of Florida. The bill increases from 12 to 14, the number of members on the Citrus/Hernando Waterways Restoration Council (Council). This is accomplished by adding two additional waterfront property owners to ensure that the Council membership includes one property owner from the west side and one from the east side of each county. The Citrus County Task Force and the Hernando County Task Force will extend their focus to include all waterways in Citrus County and in Hernando County instead of focusing solely on the Tsala-Apopka Chain of Lakes and the Weeki Wachee River and Springs. An additional representative from each county's public works department is added to the technical advisory group which advises the Council and the two county task forces.

This bill does not appear to have a fiscal impact on state government. There may be a minimal fiscal impact for the Southwest Water Management District relating to the per diem and travel expenses for the two additional members to the council.

This act shall take effect upon becoming a law.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. HOUSE PRINCIPLES ANALYSIS:

Provide limited government - The bill expands the Citrus/Hernando Waterways Restoration Council's duties as the members are responsible for all the waterways in Citrus and Hernando Counties instead of solely managing the Tsala-Apopka Chain of Lakes and the Weeki Wachee River and Springs.

B. EFFECT OF PROPOSED CHANGES:

Present Situation

The Citrus/Hernando Waterways Restoration Council (Council) was created by the legislature in 2003 (HB 221, Section 1, Chapter 2003-287, Laws of Florida) to develop tasks for the enhancement of fish and wildlife habitats in Citrus and Hernando counties. The public, the Fish and Wildlife Conservation Commission, the Southwest Florida Water Management District, as well as other local, regional, and state entities, have expressed concern that the lakes have been slowly filling in and are becoming marshy due to drought, fire suppression and several other factors. It is the Council's duty to recommend proposals to restore portions of the Citrus/Hernando waterways.

The Council is coordinated by representatives of the following agencies: The Florida Fish and Wildlife Conservation Commission, the Department of Environmental Protection and the Southwest Florida Water Management District. The Council consists of 12 voting members with six members appointed by the President of the Senate and six members appointed by the Speaker of the House of Representatives. The President and Speaker have each appointed:

- a waterfront property owner from each county;
- an attorney from each county;
- a member of the Board of Directors of the Chamber of Commerce from each county;
- an environmental engineer from each county;
- an engineer from each county; and
- a person from each county with training in biology or another scientific discipline.

Current law directs the Council members from both counties to form separate task forces to assess and make recommendations on waterways within their respective counties. The Citrus County Task Force is directed to develop plans for restoring the Tsala-Apopka Chain of Lakes, while the Hernando County Task Force must develop plans for restoring the Weeki Wachee River and Springs. A technical advisory group was created to assist the Council and the two county task forces by informing the members on the scientific and technical issues regarding water quality within the area.

The technical advisory group is comprised of the following: one representative each from the Southwest Florida Water Management District, the Department of Environmental Protection, the Department of Transportation, the Fish and Wildlife Conservation Commission, the Coastal Rivers Basin Board, the Withlacoochee River Basin Board, and the United States Army Corps of Engineers. Each member of the technical advisory group was appointed by his or her respective agency; it is a requirement that each member, with the exception of the representatives from the Withlacoochee River Basin Board and the Coastal Rivers Basin Board, have training in biology or another scientific discipline.

The Council's responsibilities include:

- reviewing audits and all data specifically related to lake and river restoration techniques and sport fish population recovery strategies, including data and strategies for shoreline restoration,

sand and other sediment control and removal, exotic species management, floating tussock management or removal, navigation, water quality, and fish and wildlife habitat improvement, as they are applicable to the Citrus/Hernando waterways;

- evaluating whether additional studies are needed;
- exploring all possible sources of funding to conduct the restoration activities;
- providing an annual progress report to the Speaker of the House of Representatives and the President of the Senate by November 25 of each year.

Concerns have been expressed by the citizens of both Citrus and Hernando counties that only the waterfront property owners in the eastern part of each county were represented on the Council. The waterfront property owners in the western part of each county want to have a representative appointed to better represent their interests. The majority of Citrus and Hernando water bodies are on the eastern side of each county; however, the Council wants to include a representative from both areas.

Another concern expressed to the Council is that the task forces are assessing only water bodies in the eastern part of the counties. Because only 25% of the water bodies in each county were originally included, there are a significant number of waterfront property owners who do not have a voice on these task forces. The separate task forces are not allowed to report on the other 75% of water bodies in Citrus and Hernando County. The task forces and the people in these two counties want to expand the responsibilities of both task forces to include all water bodies in Citrus and Hernando County.

Effect of Proposed Changes

The bill amends section 1 of Chapter 2003-287, Laws of Florida, to: (1) increase the membership of the Council, (2) expand the focus of each task force, and (3) add a representative from each county's public works department to the technical advisory group. In order to address the concerns of the citizens of the two counties, the bill will increase the membership of the Council from 12 to 14 members, adding two waterfront property owners by requiring one property owner from the east side and one from the west side of each county. The bill expands the focus of each task force to include all waterways in each county. The bill also adds a representative from each county's public works department to the technical advisory group.

C. SECTION DIRECTORY:

Section 1. Amends section 1 of ch. 2003-287, F.S., relating to the Citrus/Hernando Waterways Restoration Council, by revising the membership, duties and powers of the Council, the membership of the two county task forces, and the technical advisory group.

Section 2. Provides an effective date.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

None.

2. Expenditures:

None.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

2. Expenditures:

There may be a minimal fiscal impact for the Southwest Water Management District relating to the per diem and travel expenses for the two additional members to the Council.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

To the extent that the Council is able to develop an action plan and sources of funding for the restoration of all waterways in Citrus and Hernando Counties, properties around the waterways may benefit in terms of increased market value of their land.

D. FISCAL COMMENTS:

None.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

Not applicable, because this bill does not appear to: require the counties or cities to spend funds or take an action requiring the expenditure of funds; reduce the authority that cities or counties have to raise revenues in the aggregate; or reduce the percentage of a state tax shared with cities or counties.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

None.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/COMMITTEE SUBSTITUTE & COMBINED BILL CHANGES

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1 A bill to be entitled
2 An act relating to the Citrus/Hernando Waterways
3 Restoration Council; amending section 1 of ch. 2003-287,
4 Laws of Florida; revising the membership, powers, and
5 duties of the council; revising the membership of the
6 separate county task forces of the council; providing an
7 effective date.

8

9 Be It Enacted by the Legislature of the State of Florida:

10

11 Section 1. Subsections (2), (3), and (4) of section 1 of
12 chapter 2003-287, Laws of Florida, are amended to read:

13

Section 1.

14

(2) Members of the council shall consist of 14 ~~12~~ voting
15 members with 7 ~~6~~ appointed by the President of the Senate and 7
16 ~~6~~ appointed by the Speaker of the House of Representatives. The
17 council shall consist of representatives as follows:

18

(a) Two ~~A~~ waterfront property owners ~~owner~~ from each
19 county, one of whom must be a property owner from the east side
20 of the county and one of whom must be a property owner from the
21 west side of the county.

22

(b) An attorney from each county.

23

(c) A member of the Board of Directors of the Chamber of
24 Commerce from each county.

25

(d) An environmental engineer from each county.

26

(e) An engineer from each county.

27

(f) A person from each county with training in biology or
28 another scientific discipline.

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(3) The council members from each county are to form two separate county task forces from the council to review and make recommendations on specific waterways. The Hernando County Task Force shall develop plans for the restoration of the waterways in Hernando County ~~Weeki Wachee River and Springs~~. The Citrus County Task Force shall develop plans for the restoration of the waterways in Citrus County ~~Tsala Apopka Chain of Lakes~~.

(4) There shall be a technical advisory group to the council and the two county task forces which shall consist of one representative each from the Southwest Florida Water Management District, the Department of Environmental Protection, the Department of Transportation, the Fish and Wildlife Conservation Commission, the Coastal Rivers Basin Board, the Withlacoochee River Basin Board, the public works department of each county, and the United States Army Corps of Engineers, each of whom shall be appointed by his or her respective agency and each of whom, with the exception of the representatives from the Withlacoochee River Basin Board and Coastal Rivers Basin Board, shall have had training in biology or another scientific discipline.

Section 2. This act shall take effect upon becoming a law.

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HM 539 Indian River Lagoon Restoration Project and the Lake Okeechobee and Estuary Recovery Plan
SPONSOR(S): Harrell and others
TIED BILLS: **IDEN./SIM. BILLS:**

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR
1) Water & Natural Resources Committee		Blanchette <i>CB</i>	Lotspeich <i>RFL</i>
2) Local Government Council			
3) State Resources Council			
4)			
5)			

SUMMARY ANALYSIS

The memorial urges the United States Congress to promptly enact pending legislation to authorize the Indian River Lagoon Restoration Project and requests the President of the United States to sign that legislation into law. It also requests the President to work with the Congress to develop and enact a comprehensive planning and funding initiative to be implemented in coordination with Governor Bush's Lake Okeechobee and Estuary Recovery Plan announced on October 10, 2005.

The memorial does not have a fiscal impact.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. HOUSE PRINCIPLES ANALYSIS:

This bill does not appear to implicate any of the House Principles.

B. EFFECT OF PROPOSED CHANGES:

Background

The Indian River Lagoon

The South Florida Water Management District ("SFWMD") and the U.S. Army Corps of Engineers completed a Final Integrated Project Implementation Report and Environmental Impact Statement in March 2004 that covers central and southern Florida. The SFWMD describes the Indian River Lagoon as a "series of three distinct, but interconnected, estuarine systems, which extend 156 miles from Ponce Inlet to Jupiter Inlet on Florida's east coast."¹ The northern portion of the lagoon is within the St. Johns River Water Management District, while the lagoon's southern section is located within the SFWMD in St. Lucie, Martin and northern Palm Beach counties.²

The Indian River Lagoon has been described as the most bio-diverse estuarine system in all of North America, providing shelter to manatees, dolphins, sea turtles, and seahorses.³ Part of the Indian River Lagoon is an estuary of national significance, recognized by the U.S. Environmental Protection Agency National Estuary Program and designated a Florida Aquatic Preserve and Outstanding Florida Water.⁴ Moreover, the lagoon supports multimillion dollar fishing, clamming, tourism, agricultural and recreational industries.⁵

SFWMD defines a lagoon as a "broad, shallow estuarine system separated from the ocean by a barrier island, generally paralleling the shoreline and limiting exchange with the sea through inlets."⁶ An estuary is defined as an "area where saltwater from the sea mixes with freshwater from the land, such as a bay, the mouth of a river, a salt marsh, or a lagoon."⁷ Estuarine systems are important for the "survival of many species of birds, mammals, fish and other wildlife, some of them rare and endangered."⁸ There are several benefits that saltwater grasses and other estuarine plants provide to their surroundings which include erosion prevention and stabilizing shorelines.⁹

Both SFWMD and the U.S. Army Corps of Engineers have stated in the Final Integrated Project Implementation Report that the southern Indian River Lagoon ecosystem is in imminent danger of ecological collapse.¹⁰ "The estuary system has been degraded by large and frequently occurring discharges of freshwater, and by excessive accumulation of muck in estuary and lagoon bottoms."¹¹ This has produced a reduction in water clarity and ultimately "exceeded the salinity tolerances of submerged vegetation and benthic animals."¹² Because so much of the income of Martin and St. Lucie

¹ www.sfwmd.gov/org/wrp/wrp_ce/2_wrp_ce_lagoon/2_wrp_ce_lagoon.html.

² Final Integrated Project Implementation Report and Environmental Impact Statement, U.S. Army Corps of Engineers & SFWMD, March 2004.

³ Id.

⁴ Id.

⁵ Id at 1.

⁶ Id.

⁷ Id.

⁸ Id.

⁹ Id.

¹⁰ Id at 2.

¹¹ Id.

¹² Id.

Counties relies on recreational and commercial fishing and other marine-related activities, further degradation of the lagoon ecosystem may have a direct adverse impact on the regional economy.¹³

Adequately and reliably meeting the water supply demands of the agricultural interests in the south Florida area is also an issue. Historically, most rainwater soaked into the ground in the region's short hydroperiod wetland systems.¹⁴ As Martin and St. Lucie Counties developed, some of these wetlands were converted into agricultural and urban land issues. For some of the remaining wetlands, the network of drainage canals worked too efficiently and drained too much water off the land too quickly. The net result is that insufficient water is stored for all agricultural use in the dry season, and agricultural interests are forced to rely on the moderately saline Floridan aquifer to supplement irrigation needs.¹⁵ Reliance on this source for extended periods of time can lead to decline in productivity and potential die-off of crops. According to the SFWMD and U.S. Army Corps of Engineers, without the features contained in the Indian River Lagoon – South Restoration Plan, these adverse impacts to regional agriculture will continue.¹⁶

Indian River Lagoon - South Restoration Plan

The Indian River Lagoon – South (IRL-S) Restoration Plan one of the highly interrelated components of the Comprehensive Everglades Restoration Plan ("CERP"), a joint federal-state effort to restore hydropatterns in the Everglades area. However, the United States Congress must authorize implementation of the IRL-S Restoration Plan in order for restoration activities to proceed.

The IRL-S Restoration Plan will allow significant restoration of physically and biologically degraded areas in the southern Indian River Lagoon area, while providing for other water-related needs of the region, including sustainable agricultural water supply and maintenance of existing flood protection.¹⁷ The IRL-S Restoration Plan recommends a plan for Martin, St. Lucie, and Okeechobee Counties that will improve water quality within the St. Lucie Estuary and the Indian River Lagoon by reducing the damaging effects of watershed runoff, reducing high peak freshwater discharges to control salinity levels, reducing nutrient loads, pesticides and other pollutants.¹⁸ The project will also provide water supply for agriculture to offset reliance on the Floridan aquifer.¹⁹ "The IRL-S Restoration Plan includes building and operating approximately 12,600 acres of new reservoirs, approximately 8,700 acres of new stormwater treatment areas, restoring natural hydrology on approximately 92,000 acres in the watershed, restoring approximately 3,100 acres of floodplain wetlands in the North Fork of the St. Lucie River, and muck removal and habitat restoration actions inside the estuaries."²⁰

The IRL-S Restoration Plan recommends the following: "building pumps, levees, canals and other water control structures to operate and interconnect project features and provide a mechanism for re-directing freshwater discharges."²¹ As a result, there will be significant reduction in harmful discharges into the estuaries, water quality treatment will be provided, native wetland and upland habitat in the watershed will be restored, and there will be improved habitat for natural populations of flora and fauna, including threatened and endangered species.²²

Without the implementation of the IRL-S Restoration Plan, the southern Indian River Lagoon ecosystem will continue to deteriorate and will remain in imminent danger of ecological collapse. A small level of ecological improvement within the south Florida ecosystem is expected to occur by 2050 as a result of implementation of Federal, state, and local projects currently planned outside of the

¹³ Id.

¹⁴ Id at 2.

¹⁵ Id.

¹⁶ Id.

¹⁷ Id.

¹⁸ Id.

¹⁹ www.evergladesplan.org/pm/projects/proj_07_irl_south.cfm

²⁰ Id at. 2.

²¹ Id.

²² Id.

CERP program.²³ Some of these projects would beneficially affect the study area. However, the cumulative, regional benefits from these projects would not result in restoration of the Indian River Lagoon ecosystem and its watershed. While the IRL-S Restoration Plan addresses to a significant degree the restoration needs associated with impacts from the watershed, the balance of the CERP further contributes to the restoration of the Indian River Lagoon by providing additional storage of excess regional water from Lake Okeechobee and its enormous watershed.²⁴ The success of the IRL-S Restoration Plan is ultimately dependent upon the implementation of the overall restoration plan for the south Florida ecosystem.

The Caloosahatchee River and Estuary

The 2004 hurricane season generated unprecedented rainfall, dumping up to 13 million gallons of water each minute into Lake Okeechobee at its peak. Lake Okeechobee rose by more than five and a half feet in less than three months -- from just over 12 feet in early August to more than 18 feet by mid-October. The high winds, heavy rainfall and recent warm weather contributed to murky waters, poor water quality and a decline in the health of the Lake. Regulated freshwater discharges needed to lower lake levels and prevent flooding have impacted not only the health of the St Lucie River and its estuary but also the Caloosahatchee River and its estuary.

The SFWMD describes the Caloosahatchee River estuary as an area "where the waters of the Gulf of Mexico mix with the freshwater inflows from the river, sloughs and overland sheetflows in the basin."²⁵ In the lower reaches of the river and estuary are sand flats, a shallow bay and extensive seagrass beds.²⁶ Widespread mangrove forests dominate undeveloped areas of the shoreline.²⁷ Southwest Florida estuaries are habitat to more than 40 percent of Florida's rare, endangered and threatened species.²⁸ "The Caloosahatchee River and estuary extend about 70 miles from Lake Okeechobee to San Carlos Bay on Florida's southwest coast."²⁹ Pine Island Sound, Matlacha Pass, Charlotte Harbor aquatic preserves and Telegraph Swamp are all noteworthy natural system resources within the Caloosahatchee River watershed.³⁰

The following are major issues affecting the Caloosahatchee River watershed: water supply availability, salinity variations and nutrient levels.³¹ "Water quality within the Caloosahatchee River basin is threatened by altered freshwater inputs, nutrient loads from agricultural activities, trace elements as well as overall urban growth and development within the watershed."³² The value of riverine and estuarine ecosystems depends on water quality. As water quality diminishes, so does the overall quality of the system.³³

The Lake Okeechobee and Estuary Recovery Plan

Governor Bush announced the Lake Okeechobee and Estuary Recovery Plan ("Plan") on October 10, 2005. The Plan is designed to reduce pollution and better manage the flow of water from Lake Okeechobee to the St. Lucie River and the Caloosahatchee River while meeting south Florida's flood control and water supply responsibilities.³⁴ "Under the \$200 million recovery plan, the State is expanding water storage areas, constructing treatment marshes and expediting environmental management initiatives to enhance the ecological health of the lake and downstream coastal estuaries."³⁵ As part of the Plan, State agencies are working together to improve farming practices by

²³ Id.

²⁴ Id.

²⁵ www.sfwmd.gov/org/wrp/wrp_ce/2_wrp_ce_estuary/cal.html

²⁶ Id.

²⁷ Id.

²⁸ Id.

²⁹ Id.

³⁰ Id.

³¹ Id at 10.

³² Id.

³³ Id..

³⁴ www.dep.state.fl.us/secretary/news/2005/10/1010_01.htm.

³⁵ Id.

raising standards and strengthening permitting criteria for new development.³⁶ "The State will also begin implementing a new lake regulation schedule with the U.S. Army Corps of Engineers to lower water levels and reduce freshwater discharges to the St. Lucie and Caloosahatchee estuaries to improve current conditions."³⁷ Governor Bush's Lake Okeechobee and Estuary Recovery Plan involves the following agencies: South Florida Water Management District, Department of Environmental Protection, Department of Community Affairs and Department of Agriculture and Consumer Services.³⁸

Governor Bush intends to ask the Florida Legislature to provide a second installment of \$25 million in next year's budget (FY 2006-2007), building on an initial investment of \$30 million this year - \$25 million in growth management funding from the Department of Environmental Protection and \$5 million from the Department of Agriculture and Consumer Services.

Effect of Proposed Changes

The memorial urges the United States Congress to promptly enact pending legislation to authorize the Indian River Lagoon Restoration Project and requests the President of the United States to sign that legislation into law. The memorial also requests the President to work with the Congress to develop and enact a comprehensive planning and funding initiative to be implemented in coordination with Governor Bush's Lake Okeechobee and Estuary Recovery Plan announced on October 10, 2005.

The implementation of the IRL-S Restoration Plan is contingent on the appropriation of funds by the United States Congress for the work to be completed. It is currently estimated that \$1.3 billion will be needed to fully implement the IRL-S Restoration Plan.³⁹

C. SECTION DIRECTORY:

The memorial format does not contain sections.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

None.

2. Expenditures:

None.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

None.

³⁶ Id.

³⁷ Id.

³⁸ Id.

³⁹ Personal communication with U.S. Army Corps of Engineers staff on January 25, 2006.

D. FISCAL COMMENTS:

The total initial cost for the implementation of the Indian River Lagoon – South Restoration Plan is estimated to be just over \$1.3 billion.⁴⁰ The annual operation and maintenance costs are estimated at \$6,145,000 including \$1,954,500 for project monitoring.⁴¹

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

Not applicable, because this bill does not appear to: require the counties or cities to spend funds or take an action requiring the expenditure of funds; reduce the authority that cities or counties have to raise revenues in the aggregate; or reduce the percentage of a state tax shared with cities or counties.

2. Other: None.

B. RULE-MAKING AUTHORITY:

None.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/COMMITTEE SUBSTITUTE & COMBINED BILL CHANGES

⁴⁰ Id at 38.

⁴¹ Id at 2.

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House Memorial

A memorial to the President of the United States and the United States Congress, urging the prompt enactment of legislation to authorize funding to construct the Indian River Lagoon Restoration Project and the development of a comprehensive plan to assist in the implementation of the Lake Okeechobee and Estuary Recovery Plan.

WHEREAS, the Indian River Lagoon and the St. Lucie Estuary encompass the most biologically diverse estuary in North America that is recognized for national significance in the National Estuary Program, and

WHEREAS, the Indian River Lagoon and the St. Lucie Estuary have been and continue to be severely degraded by excessive freshwater discharges, nutrients, and sediments from Lake Okeechobee and the drainage canals constructed by the Central and Southern Florida Flood Control Project, and

WHEREAS, the State of Florida has a long history of supporting local, state, and federal programs to improve the environmental health of the Indian River Lagoon and the St. Lucie Estuary, the health of which is critical to the economic and social environment of Florida and the nation, and

WHEREAS, the support of the State of Florida includes forming and funding the St. Lucie River Issues Team and the Indian River Lagoon Restoration Task Force and providing 50 percent of the cost of the Comprehensive Everglades Restoration Plan projects, and

WHEREAS, local government partners, including the Nine County Coalition for the Responsible Management of Lake

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Okeechobee and St. Lucie and Caloosahatchee Estuaries, are implementing urban stormwater quality retrofit projects, funding over \$100 million to restore the Indian River Lagoon and the St. Lucie Estuary, and

WHEREAS, water being released into the Caloosahatchee River westward from Lake Okeechobee has introduced too much fresh water into the Caloosahatchee River and its estuaries, causing great damage to the aquatic life in that fragile system, and

WHEREAS, local voters in Martin County voluntarily approved a special sales tax referendum for healthy rivers that raised over \$50 million to assist in the purchase of the land necessary to implement the Indian River Lagoon Restoration Project, and

WHEREAS, the State of Florida has enthusiastically endorsed Congressional authorization of the Indian River Lagoon Restoration Project, and

WHEREAS, the Indian River Lagoon Restoration Project, after numerous bureaucratic delays, has now undergone full administrative review and is ready for Congressional authorization and subsequent funding and construction, and

WHEREAS, the Indian River Lagoon Restoration Project is the first of over forty major components of the Comprehensive Everglades Restoration Plan that require Congressional authorization, and

WHEREAS, Congressional authorization of the Indian River Lagoon Restoration Project will pave the way for Congressional authorization of the other major components of the Comprehensive Everglades Restoration Plan, and

WHEREAS, Lake Okeechobee is the gateway to America's Everglades and the largest freshwater lake in the southeastern

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59 United States, and

60 WHEREAS, the health of Lake Okeechobee is vital to the goal
61 of restoring America's Everglades, and

62 WHEREAS, the recent catastrophic hurricanes have caused
63 massive pollution of the lake's waters and destroyed essential
64 plant life within the lake, and

65 WHEREAS, the recent catastrophic hurricanes have made it
66 extremely difficult to maintain the level of the lake without
67 damaging releases into the Indian River Lagoon and St. Lucie
68 Estuary and the Caloosahatchee Estuary, and

69 WHEREAS, on October 10, 2005, Governor Jeb Bush announced
70 the Lake Okeechobee and Estuary Recovery Plan, an initiative by
71 the State of Florida to accelerate the recovery and restoration
72 of Lake Okeechobee, and

73 WHEREAS, the people of the United States, and the
74 generations of Americans to follow, deserve the environmental
75 and economic benefits of the restoration of America's Everglades
76 that will be derived from the implementation of the entire
77 Comprehensive Everglades Restoration Plan, NOW, THEREFORE,

78
79 Be It Resolved by the Legislature of the State of Florida:

80
81 That the State of Florida urges the United States Congress
82 to pass, without further delay, the pending legislation to
83 authorize the Indian River Lagoon Restoration Project and
84 requests the President of the United States to sign that
85 legislation into law and further requests the President to work
86 with the Congress to develop and enact a comprehensive planning
87 and funding initiative to be implemented in coordination with

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CODING: Words ~~stricken~~ are deletions; words underlined are additions.

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88 | the Lake Okeechobee and Estuary Recovery Plan announced by
89 | Governor Bush on October 10, 2005.

90 | BE IT FURTHER RESOLVED that copies of this memorial be
91 | dispatched to the President of the United States, to the
92 | President of the United States Senate, to the Speaker of the
93 | United States House of Representatives, and to each member of
94 | the Florida delegation to the United States Congress.